

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**JAMES ANTHONY WARREN, #1334008,**  
**Plaintiff,**

**v.**

**THE ESTATE OF HENRY WADE, et al.,**  
**Defendants.**

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**3:12-CV-0938-P-BK**

**ORDER ACCEPTING FINDINGS AND RECOMMENDATION**  
**OF THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made findings, conclusions and a recommendation in this case. Plaintiff/Petitioner filed objections, and the District Court has made a *de novo* review of those portions of the proposed findings and recommendation to which objection was made. The objections are overruled. The Court **ACCEPTS** the Findings, Conclusions and Recommendation of the United States Magistrate Judge. The dismissal of this case **will count** as a “strike” or “prior occasion” within the meaning 28 U.S.C. § 1915(g).<sup>2</sup>

The Court **CERTIFIES** that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3). In support of this finding, the Court adopts and incorporates by reference the Order accepting the findings, conclusions and recommendation of the magistrate judge. *See Baugh v. Taylor*, 117 F.3d 197, 202 n.21 (5th Cir. 1997). Based on the above Order,

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<sup>2</sup> Section 1915(g), commonly known as the “three-strikes” provision, provides: “[i]n no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section, if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.”

the Court finds that any appeal of this action would present no legal point of arguable merit and would, therefore, be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983).

SO ORDERED this 14<sup>th</sup> day of <sup>Sept.</sup>       , 2012.

  
UNITED STATES DISTRICT JUDGE